

LEGAL PERMANENCY OPTIONS FOR CHILDREN IN FOSTER CARE



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WHAT WE WILL COVER IN THIS TRAINING

- Federal law on child welfare
 - Basic principles
- Different Permanency options
 - Legal criteria
 - Benefits/supports
- Best Practices when planning for permanency
 - Resources post-permanency



Questions (at end)

ADOPTION AND SAFE FAMILIES ACT OF 1997 ("ASFA")

- Designed to decrease the "foster care drift."
- Defined permanency options and put time deadlines on achieving permanency.
- Made clear that child health and safety must be paramount concern when reunifying.
- Certain cases don't require reunification services to parents.
- Court Findings required for funding (IV-E).



FOSTERING CONNECTIONS TO SUCCESS AND INCREASING ADOPTIONS ACT OF 2008



- o Provides option to extend foster care to age 21
- o Requires increased efforts to find kin
- o Provides incentives to increase school stability
- o Requires transition planning at least 90 days prior to exit from care
- o Addresses sibling placement and visitation
- o Gives adoption incentives to States for special needs and older youth

PREVENTING SEX TRAFFICKING AND STRENGTHENING FAMILIES ACT OF 2014



- o Gives better incentives to States for attaining permanency for older youth.
- o Requires States to monitor their disrupted adoptions and guardianships.
- o Limits goal of APPLA to children over age 15, and only after caseworker has made extensive efforts to pursue other permanency tracks.

BASIC PRINCIPLES

- o Foster care is temporary.
- o Need to minimize moves in foster care.
- o Keep children connected to birth family whenever possible and appropriate.
- o Place children with a permanent family at the earliest possible stage. Stability is not permanency.
- o Prepare foster/adoptive families to parent the special needs of children who are traumatized.
- o Support foster/adoptive families after adoption finalization to help ensure they can continue parenting these children into adulthood.



PERMANENCY OPTIONS

- o Reunification
- o Adoption
- o Permanent Guardianship
- o Guardianship
- o Another Planned Permanent Living Arrangement ("APPLA")



REUNIFICATION

- o Primary plan in most cases.
- o Parents must comply with DFS case plan and the Court determines that the child is safe in the care of his/her parent(s).
- o Time limited case planning period for parent(s).



BUT WHAT IF REUNIFICATION CANNOT SAFELY BE ACHIEVED??



WHEN YOU MAY NEED TO BEGIN PLANNING FOR A PERMANENT PLAN OTHER THAN REUNIFICATION...

- Prior involuntary TPR of parent(s).
- Parent(s) convicted of a felony against any child.
- Prior DFS custody of the children.
- Long history of incarceration of parents.
- Serious unexplained injury to a child.
- A child has been subjected to torture or sexual abuse by his/her parent(s).



TPR/ADOPTION- LEGAL CRITERIA (PART 1)

- o Termination of Parental Rights ("TPR")
 - Must prove by clear and convincing evidence that DFS has at least one ground for TPR and it is in the child's best interests for TPR to be granted.
- o Grounds for TPR- 13 Del. Code § 1103
 - o Abandonment
 - o Failure to Plan
 - o Voluntary consent
 - o Prior involuntary TPR of another child
 - o Mental incompetence (parent)
 - o Committed felony against a child
 - o Parent subjected child to torture, chronic abuse, sexual abuse, or life-threatening abuse
 - o Child has suffered unexplained serious physical injury



TPR/ADOPTION- LEGAL CRITERIA (PART 2)

- o Best Interests- 13 Del. Code § 722
 - Wishes of the child's parent or parents
 - Wishes of the child
 - Interaction and interrelationship of the child with residents of household in which child may live.
 - Child's adjustment to home, school, and community.
 - Mental and physical health of person's involved.
 - Parent's past and present compliance with their rights and responsibilities to their child (under §701).
 - Evidence of domestic violence.
 - Criminal history of any party or resident of household.



IMPORTANT STEPS IN PLANNING FOR ADOPTION (PART 1)

- 1-Child Specific Recruitment ("CSR") worker assigned.
 - assist/lead with adoption recruitment
 - talk with prospective families and their workers
 - work with child's team to identify appropriate matches

- 2-MY LIFE("My Young Life in Foster Care Explained")
 - prepare child for adoption/include child in discussions as appropriate for age
 - provide support in transition when the family is identified



IMPORTANT STEPS IN PLANNING FOR ADOPTION (CONTINUED)

- 3- Child Summary/profile to be completed

- 4- Recruitment photos to be taken



RECRUITMENT

Before TPR granted

After TPR granted

- Worker invitational
- Email/phone calls to adoption agencies
- Deladopt list
- Professional photos



- National Adoption Center
- AdoptUSKids
- Wendy's Wonderful Kids (Dave Thomas Foundation)
- Heart Gallery
- "Match" parties

ADOPTION FINALIZATION- LEGAL CRITERIA

- o Parental rights are terminated and appeal process is exhausted.
- o Home study must be completed and approved by DFS' Permanency Planning Committee ("PPC").
- o Child(ren) must reside with caretaker for a minimum of six months while being supervised by a licensed agency.
- o If child is over age 14 then child must consent to adoption.



ADOPTION- BENEFITS

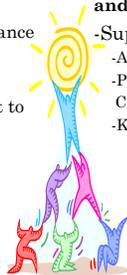
- o Adoption is permanent! Child is legally the child of adoptive parent(s).
- o Contact with birth family is at discretion of adoptive family.
- o Child is automatically provided with Medicaid.
- o Child *may* be eligible for an adoption subsidy until 18.
- o If child is 16+ when adoption is finalized then they are still eligible for services until 21.
- o All adoptive families are eligible for *free* post-adoption services.



POST-PLACEMENT SUPPORT

Post Adoption Support Services with ABCFOC

- Crisis oriented assistance
- Rec and Respite
- Relevant training/ education/ support to families
- Parent/child bonding workshops
- Call 1-877-533-2212 to access services



Adoptive Families with Information and Support (AFIS)

- Support groups
- AFOCIS
- Parents of Older & Challenging Children
- Kids group



PERMANENT GUARDIANSHIP- LEGAL CRITERIA

- o Petitioner must be a relative, guardian, or foster parent
 - If foster parent is petitioner then child must be 12 years or older (some limited exceptions).
- o Proposed permanent guardian must prove "best interests" and TPR grounds exist.
- o Finding by Court that adoption is not the appropriate plan for the child.
- o If petitioner is a foster parent or guardian then the child must have resided with petitioner for at least six months.
- o Child 14 year or older must consent to the guardianship.
- o Social report (home study) of petitioner is required.



PERMANENT GUARDIANSHIP- BENEFITS

- o Birth parent(s) *can not* apply to rescind the guardianship.
- o Parents are permitted visitation per court order/ agreement.
- o Guardian can apply for child support from biological parent(s).
- o Guardian can apply for financial assistance (i.e. TANF, POC, Medicaid, and Food Stamps) through DHSS (eligibility dependent on income).
- o Child may be eligible for a subsidy from DFS until age 18.
- o All permanent guardians are eligible for services.
- o If child is 16+ when guardianship is granted then still eligible for I services until 21.



GUARDIANSHIP- LEGAL CRITERIA

- o Any interested person can petition for guardianship.
- o Burden is on potential guardian to prove parents are unfit and guardianship is in the child's best interests.
- o Guardianship is *temporary*- birth parents can petition the court to rescind the guardianship at any time.
- o No age restriction for child (child 14 or older must consent to guardianship).
- o In cases where child in in DFS custody then guardianship must also be found by Court to be the most appropriate permanency goal for the child.



GUARDIANSHIP- BENEFITS

- o Guardian may apply for financial assistance (i.e. TANF, POC, Medicaid, food stamps) through DHSS (eligibility dependent on income).
- o Guardian may apply for child support from biological parents.
- o Parents are permitted visitation per court order or agreement.
- o If guardianship granted when child is 16 or older then they are still eligible for independent living (IL) services.



ANOTHER PLANNED PERMANENT LIVING ARRANGEMENT ("APPLA")- LEGAL CRITERIA

- o APPLA is a "status" – **not** a permanency goal.
- o Youth must be 16 years or older.
- o Must prove to Court that reunification, adoption, and guardianship are not possible or appropriate.
- o Court must also find that there are "compelling reasons" to find that it is not in the best interest of the child to have any other goal.



ANOTHER PLANNED PERMANENT LIVING ARRANGEMENT (APPLA)- SERVICES

- o Monthly board payments until child "ages out."
- o DFS remains involved.
- o Visitation with birth family per DFS or court order.
- o Court review hearings are held on a regular basis.
- o Independent Living (IL) work until child turns 16 years old.
- o Youth 18 and older may be eligible for board extension or other funds to assist with housing, utilities, etc.



RESOURCES

- o A Better Chance for Our Children (ABC)- www.abcfoc.org
- o Adoptive Families in Support (AFIS)- www.afisdelaware.org
- o AdoptUSKids- www.adoptuskids.com
- o Heart Gallery- <https://kids.delaware.gov/heartgallery/heartgallery.shtml>
- o National Adoption Center- www.adopt.org

QUESTIONS